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No. 04-1087

IN THE
SUPREME COURT OF THE UNITED STATES

Marshall Samuel Sanders,

Petitioner,

v.

IN RE: ESTATE OF HARRY SANDERS, DECEASED
ROSALYN VINE, EXECUTRIX,

Respondent.

On a Writ of Certiorari to
The Supreme Court of Tennessee

PETITION FOR REHEARING

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PETITION FOR REHEARING

Pursuant to Rule 44.1, petitioner respectfully petitions this Court for rehearing.

I.

> "It is likely that no legal topic has generated more interstate cooperation and coordination than the collection of delinquent child support. The heightened priority given this issue has resulted in a series of uniform laws which have been adopted to varying degrees in virtually every American state during the past three decades and are identified by statutory acronyms which would make any federal regulator envious. The Uniform Reciprocal Enforcement of Support Act ("URESA") has yielded to the Revised Uniform Reciprocal Enforcement of Support Act ("RURESA"), which has now been supplanted in every state by the Uniform Interstate Family Support Act ("UIFSA"). In addition, Congress enacted the Full Faith and Credit for Child Support Orders Act (the "FFCCSOA") in 1994 to eliminate any further jurisdictional skirmishes between states which had previously impeded the prompt enforcement of child support orders." In Re Garrett, (Bankr.E.D.Tex. 2004) *315 B.R. 431*.

In place of clear direction, the Court's denial of petitioner's writ of certiorari ***reverses*** In Re Garrett, clouding the entire arena of child support. *Bednarsh v. Bednarsh,* 282 N.J. Super. 482, 660 A.2d 575, 578, fn. 5 (Ch. Div. 1995) (confusion reigns supreme).

II.

On April 22, 2005, 18 days after the Court's denial of a writ of certiorari in the instant case, a decision came down wherein the absence of minimum contacts saved a father from paying post-secondary college education expenses of his child --- N.E.2d ----, 2005 WL 928414, Ind.App., Apr 22, 2005. Because Petitioner had no minimum contacts with the State of Tennessee, Tennessee must not deprive him of his property interest under the child support and educational provisions of his parents' marital settlement agreement.

The Uniform Interstate Family Support Act (UIFSA) is a child and spousal support legislation adopted and implemented by most states in the US. It is law throughout the US. The UIFSA is the successor of URESA and is a long-arm statute as it gives jurisdiction to the state which issues the first support order, over the support payor anywhere in the USA for the purposes of varying that order.

Because every court that has had a UIFSA action before it has upheld it, it makes no sense for the Court to overrule it by denial of petitioner's writ of certiorari. It only promotes vigorous violation of the law.

Furthermore, a child is defined to include a child over the age of majority if he or she is the beneficiary of a support order. Section 101(1). The Court's order of denial of petitioner's writ of certiorari cannot be squared with past cases upholding the Constitutionality of UIFSA, thus, once again, it makes no sense for the Court to deny petitioner's writ of certiorari unless of course it is the Court's intention to reverse UIFSA, a judicial fiat undermining Congress and far out-stepping the Court's place and Constitutional boundaries under the Separation of Powers doctrine in place from day 1 of the founding of our country. The Court should vindicate

itself in light of its denial of petitioner's writ of certiorari that it has countermanded settled law.

Still further, UIFSA may be used to enforce support arrears on behalf of an obligee even if the child is ***no longer a minor***. It may also be used to enforce an order for ***college tuition***. A child support order embodies this new definition of child. Section 101(2). UIFSA may be used to establish an initial support order.

Petitioner's writ of certiorari did no more than call to the Court's attention the *interpretation* by Tennessee courts of a child support order that under UIFSA must be **enforced**, not interpreted, backed up by the Full Faith and Credit Clause of the U. S. Constitution.

III.

Either UIFSA is Constitutional or it is not. The Court should grant certiorari to give guidance: UIFSA cannot be overruled by the States through State courts' unlawful interpretations, that is, unless the Court's intention is to let States' rights *override* the U.S. Constitution and negate the power of Congress to enact legislation, i.e., UIFSA.

Denial of petitioner's writ of certiorari is tantamount to destroying the power of Congress to enact appropriate legislation to cure nonpayment, avoidance and arrears of child support via UIFSA. In doing so the Court "makes law" and **overrule**s Congress, a separation of powers violation and a boundary the Constitution says it may not overstep. Respect for the Supreme Court of the United States has waned. Millions of American children are helpless because the Court, in denying certiorari, has licensed, primarily fathers, to avoid child support by cleverness. A decision by the Court to grant certiorari and reverse the Supreme Court of Tennessee, will restore the integrity of the law meant to

protect children, not strip them of child support by clever artifice.

CONCLUSION

For the foregoing reasons, the petition for rehearing should be granted, the opinion of April 4, 2005, vacated, the petition for a writ of certiorari granted, and the case scheduled for oral argument.

Respectfully submitted,

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April 12, 2005

CERTIFICATE OF PETITIONER PRO SE

As petitioner pro se, I hereby certify that this petition for rehearing is presented in good faith and not for purposes of delay.

/s/ Marshall Samuel Sanders
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